IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP NO. 11519 of 1993.
Date of Decision: October 27, 2006.

No.1249309 Gnr.Dvr. Gurnam Singh

....**Petitioner**

through
Mr. Rajesh Sehgal, Advocate

Versus

Union of India & Ors.

...**Respondents**
through
Mr. M.S.Guglani, Addl.Standing Counsel for Union of India.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

This writ petition has been filed for issuance of a direction to the respondents to grant disability pension to the petitioner w.e.f. 21.8.1974 with all 'consequential benefits'. Alternatively, the petitioner has sought a direction to grant him service element of disability from the aforesaid date for life, with the consequential reliefs in accordance with circular bearing No. A.I.No.4/s/75. The petitioner has sought yet another direction that the afore-stated army instructions/circular should be made applicable to all the pensioners instead of confining its scope qua those only who retired on or after 1.1.1973.

Shorn of details, it may be mentioned that the petitioner served

the Indian Army from 23.1.1969 to 23.9.1972. He was discharged on medical grounds on being categorised “EEE”. The petitioner was granted the disability pension consisting of both the elements, i.e., `disability pension' from the date of his discharge plus `service element' and he continued to draw the same till 20.8.1974. The petitioner, who was apparently suffering from some kind of mental disorder, was brought before the Re-survey Medical Board at Medical Hospital, Jalandhar Cantt. Thereafter, the petitioner's pension was stopped. Since the petitioner was not given either the `disability pension' or pension for the `service element' rendered by him, he represented to the authorities concerned. However, finding no positive response, he has approached this Court.

The respondents have contested the petitioner's claim on the ground that he is not entitled to any `disability pension' nor to the `service element' as his disability, upon re-assessment was found to be less than 20% and he had only three years and 245 days service to his credit which is less than the required service of five years. It is averred that at the time of his discharge, the petitioner was granted temporary disability pension upto 20.8.1974 and upon his re-survey medical board conducted on 31.8.1974, he was not found eligible for `service element' of disability pension for life.

During the course of hearing and in support of his claim that irrespective of percentage of disability, the petitioner is entitled for the grant of disability pension on the basis of `service element', reliance has been placed upon a Division Bench judgment of this Court dated 27.2.1997 rendered in **CWP No.12311 of 1996 (Amarjit Singh v Union of India)**, a copy of which has been appended as Annexure P-1 with this petition. The SLP (No.7400 of 1997) preferred against the aforesaid judgment was

dismissed by the Hon'ble Supreme Court on 22.9.1997. Thereafter, the aforesaid judgment has been followed by this Court in more than one cases including **CWP No.1717 of 1998 (Ex.Sep. Nek Singh v Union of India, decided on 10.7.2000, CWP No.1687 of 2002 (Ex.Rect.Jagjit Singh v Union of India, decided on 31.5.2006, CWP No.873 of 2002 (Sewa Singh v Union of India), decided on 14.12.2005 as also LPA No.42 of 2001 (Union of India v Nek Singh), decided on 29.1.2001**.

After going through the judgment in Amarjit Singh's case (supra), I find that the issue pertaining to the service element for disability pension, even if the disability is assessed below 20%, is squarely answered in favour of the petitioner vide the aforesaid judgment. No meaning full argument could be raised by learned counsel for the respondents to distinguish the said judgment, which has been subsequently followed in more than one cases by this Court.

Consequently, and for the reasons mentioned in the Division Bench judgment of this Court in Amarjit Singh's case (supra), this writ petition is allowed in the same terms. The necessary relief including the arrears of pension (service element) shall be released in favour of the petitioner within three months from the date a certified copy of this order is supplied to the respondents. The petitioner shall also be entitled to interest on the arrears of pension (service element) @ 7% per annum from the date of filing of this writ petition till actual realization thereof.

No costs.

October 27, 2006. **(SURYA KANT)**
dinesh **JUDGE**